

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CRAIGSLIST, INC.,

No. 3:12-cv-03816-CRB

Plaintiff,

**ORDER DENYING MOTION FOR
LEAVE TO FILE THIRD AMENDED
COMPLAINT**

v.

3TAPS, INC., et al.,

Defendants.

Now before the Court is Plaintiff Craigslist, Inc.’s (“Craigslist”) motion to file a third amended complaint. Mot. (dkt. 234). Having recently retained new counsel, Craigslist wishes to add new claims for secondary copyright infringement liability as well as re-urge, on the grounds of allegedly newly discovered evidence, a conspiracy claim that this Court dismissed over two years ago. See Order (dkt. 74) at 24–25. Fact discovery has now closed, and the Court is on the verge of considering defendant PadMapper’s motion for summary judgment.

Of the factors that the Court considers in this context, at least undue delay and prejudice to the opposing party weigh heavily in favor of denying leave to amend. See Griggs v. Pace Am. Grp., Inc., 170 F.3d 877, 880 (9th Cir. 1999) (citing DCD Programs, Ltd. v. Leighton, 833 F.2d 183, 186 (9th Cir.1987)). For Craigslist to amend so late in the game, after the close of discovery and on the eve of summary judgment, would substantially and

1 unduly prejudice the opposing parties—the “touchstone of the inquiry” that “carries the
2 greatest weight” in the Court’s analysis. See Eminence Cap., LLC v. Aspeon, Inc., 316 F.3d
3 1048, 1052 (9th Cir. 2003). Accordingly, the Court DENIES Craigslist’s motion as
4 untimely.

5 **IT IS SO ORDERED.**

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7 Dated: June 11, 2015



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE